

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred and Twelfth
Legislature
OF THE
STATE OF MAINE

VOLUME I
SECOND REGULAR SESSION
January 8 - April 2, 1986

The House was called to order by the Speaker.
Prayer by Father Valmont R. Gilbert, St.
Bridget's Catholic Church of North Vassalboro.
The Journal of March 26, 1986, was read and
approved.
Quorum call was held.

112th LEGISLATURE
AUGUSTA, MAINE 04333

March 26, 1986

PAPERS FROM THE SENATE

Bill "An Act to Amend and Improve the Education
Laws of Maine" (S.P. 904) (L.D. 2271)

Came from the Senate, referred to the Committee
on Education and Ordered Printed.

Was referred to the Committee on Education in
concurrence.

Ought to Pass in New Draft

Report of the Committee on Judiciary on Bill "An
Act to Enhance the Protection of Mental Health
Recipients' Rights" (Emergency) (S.P. 794) (L.D.
1995) reporting "Ought to Pass" in New Draft
(Emergency) (S.P. 896) (L.D. 2253)

Came from the Senate, with the report read and
accepted and the New Draft passed to be engrossed as
amended by Senate Amendment "A" (S-434).

Report was read and accepted and the New Draft
read once.

Senate Amendment "A" (S-434) was read by the
Clerk and adopted and the New Draft assigned for
second reading later in today's session.

Non-Concurrent Matter

LATER TODAY ASSIGNED

Bill "An Act to Revise the Energy Building
Standards Act" (H.P. 1385) (L.D. 1954) on which the
Majority "Ought Not to Pass" Report of the Committee
on Energy and Natural Resources was read and accepted
in the House on March 25, 1986.

Came from the Senate, with the Minority "Ought to
Pass" as amended Report of the Committee on Energy
and Natural Resources read and accepted and the Bill
passed to be engrossed as amended by Committee
Amendment "A" (H-598) in non-concurrence.

On motion of Representative Diamond of Bangor,
tabled pending further consideration and later today
assigned.

COMMUNICATIONS

The following Communication: (S.P. 903)

STATE OF MAINE

Senator Larry M. Brown
Representative Ada K. Brown
Chairpersons
Joint Committee on Education
112th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor Joseph E. Brennan
has nominated Richard W. Redmond of Augusta for
appointment as Commissioner of the Department of
Educational and Cultural Services.

Pursuant to Title 20, M.R.S.A. Section 1, this
nomination will require review by the Joint Standing
Committee on Education and confirmation by the Senate.

Sincerely,

S/Charles P. Pray
President of the
Senate

S/John L. Martin
Speaker of the
House

Came from the Senate, Read and Referred to the
Committee on Education.

Was Read and Referred to the Committee on
Education in concurrence.

The following Communication: (S.P. 906)

STATE OF MAINE
112th LEGISLATURE
AUGUSTA, MAINE 04333

March 26, 1986

Senator Michael E. Carpenter
Representative Edward J. Kane
Chairpersons
Joint Committee on Judiciary
112th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor Joseph E. Brennan
has nominated Douglas A. Clapp of Pittsfield for
appointment as District Court Judge of District IV.

Pursuant to Title 4 M.R.S.A. Section 157, this
nomination will require review by the Joint Standing

Committee on Judiciary and confirmation by the Senate.

Sincerely,

S/Charles P. Pray
President of the
Senate

S/John L. Martin
Speaker of the
House

Came from the Senate, Read and Referred to the
Committee on Judiciary.

Was Read and Referred to the Committee on
Judiciary in concurrence.

The following Communication: (H.P. 1613)

STATE OF MAINE
DEPARTMENT OF TRANSPORTATION
STATE HOUSE STATION 16
AUGUSTA, MAINE 04333

March 24, 1986

Honorable Charles P. Pray
President of the Senate
State House Station #3
Augusta, Maine 04333

Honorable John L. Martin
Speaker of the House
State House Station #2
Augusta, Maine 04333

Dear President Pray and Speaker Martin:

I am pleased to present to you an Interim Report
of the Social Services Transportation Committee to
Legislative Resolve #46 of 1985.

Legislative Resolve #46 mandated that a Social
Services Transportation Review Committee be
established to review the issue of Social Services
Transportation and report to the Second Regular
Session of the 112th Legislature. The report should
include legislation necessary to implement statutory
changes and appropriation requests.

The Social Services Transportation Review
Committee met five times seeking to better identify
and understand Maine's social services and public
transportation needs. During these meetings, it
became very evident to the Committee that the issues
were too complex to enable preparation of a full
report for the Second Session of the 112th
Legislature. In addition, critical transportation
shortages were exposed that did not have a funding
source. These transportation hardships were
identified in all areas of the State from Aroostook
to York County. The Committee then decided to file
an interim report fulfilling the mandate of L.D. #46,
indicating that a full report of the transportation

issue could not be completed in time for the Second
Session of the 112th, and to alert Legislators and
other concerned citizens that there are critical
transportation needs (without funding) for additional
services throughout the state.

I should also point out that the Department of
Transportation has engaged the services of a
consulting firm to conduct a Statewide Surface
Transportation Needs Study which will identify the
transportation needs of the State and offer specific
recommendations concerning possible solutions. The
Social Services Review Committee will continue to be
involved with the Statewide Study Project.

I would also like to take this opportunity to
thank the members of the Review Committee for their
outstanding work on behalf of the people of Maine.
The members are clearly dedicated to the issue of
social services transportation and the need to
adequately serve both rural and urban needs.

Sincerely,

S/Dana F. Connors
Commissioner

Was read and with accompanying report ordered
placed on file and sent up for concurrence.

ORDERS

On motion of Representative NELSON of Portland,
the following Joint Resolution: (H.P. 1608)
(Cosponsors: Senators GILL of Cumberland, CHALMERS of
Knox and Speaker MARTIN of Eagle Lake)

JOINT RESOLUTION COMMEMORATING THE "DAYS OF REMEMBRANCE" OF THE VICTIMS OF THE NAZI HOLOCAUST

WHEREAS, 41 years ago, 6 million Jews were
murdered in the Nazi Holocaust as part of a
systematic program of genocide and millions of other
people suffered as victims of Nazism; and

WHEREAS, the people of the State of Maine
should always remember the atrocities committed by
the Nazis so that such horrors will never be
repeated; and

WHEREAS, the people of the State of Maine
should continually rededicate themselves to the
principle of equal justice for all people; and

WHEREAS, the people of the State of Maine
should remain eternally vigilant against tyranny and
recognize that bigotry provides a breeding ground for
tyranny to flourish; and

WHEREAS, April 18th has been designated,
pursuant to an Act of Congress and internationally,
as a Day of Remembrance of Victims of the Nazi
Holocaust, known as Yom Hashoah; and

WHEREAS, the international community will be

commemorating the week of April 13th through April 20th as the "Days of Remembrance" of the victims of the Nazi Holocaust; and

WHEREAS, it is appropriate for the people of the State of Maine to join in this international commemoration; now, therefore, be it

RESOLVED: That We, the Members of the Second Regular Session of the 112th Legislature, on behalf of the people of the State of Maine, in memory of the victims of the Nazi Holocaust, recommit ourselves to the lessons of the Nazi Holocaust through this international week of the commemoration and express our common desires to continually strive to overcome prejudice and inhumanity through education, vigilance and resistance; and be it further

RESOLVED: That copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the United States Holocaust Memorial Council in Washington, D.C., on behalf of the people of the State of Maine.

Was read.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Nelson.

Representative NELSON: Mr. Speaker, Men and Women of the House: Today, I stand to remind us of the victims of the disease of prejudice, not only of the six million Jews, but the six million people who were different; the six million people who were Catholics, the six million people who were gypsies, who were mentally retarded, who were different in any way. We think this about this today to remind ourselves, because if you don't remember, it will only happen again.

I would like to read a short passage from "Remembrances from a Survivor," and I quote "at the risk of offending, it must be emphasized that the victims suffered more and more profoundly from the indifference of the onlookers than from the brutality of the executioner. The cruelty of the enemy would have been incapable of breaking the prisoner. It was the silence of those he believed to be his friends, cruelty more cowardly, more subtle, which broke the heart. There was no longer anyone on whom to count, even in the camps, this became evident. From now on we shall live in the wilderness, in the void, blotted out of history. It was this conviction that poisoned the desire to live. This is the world we were born into, why cling to it? If this is human society we come from and now abandoned by, why seek to return? At Auschwitz, not only man died, but also the idea of man to live in a world where there is nothing anymore, where the executioner acts as God, as judge. Many wanted no part of it. It was in its own heart the world incinerated at Auschwitz."

The SPEAKER: The Chair is pleased to recognize in the gallery one of the survivors of the Holocaust, she is from Lewiston and the Chair would ask her to stand to accept the greetings of the Maine House. She is Greta Hass. (Applause, members rising)

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Hillock.

Representative HILLOCK: Mr. Speaker, Men and Women of the House: I am glad that we stand here today to remember the tyranny of World War II and the atrocities committed by the Axis powers. It brings

to my mind that we are honored in this House today by veterans of combat in Europe and in the Pacific. These people that are among us here today are the ones who help overthrow this tyranny and I would like to remember them also. There are some that I won't mention because they would be embarrassed that they would be shown this recognition. They are truly decorated heroes.

One amongst us is Representative Gene Paradis, a highly decorated combat veteran of the South Pacific, who fought at Guadalcanal. Representative Maynard Connors, who supported the invasion of Iwo Jima. No matter how we think of Bob Dillencback as a 'jack of all trades,' Bob stormed the shores at Iwo Jima too. On that day, 40,000 Marines were killed within eight hours and that was an atrocity in itself. Representative Lee Davis, who flew over Nazi Germany as a pilot of a B-17. A third of his squadron was decimated in a raid over Germany and the damage was so terrific that they disbanded that squadron when they went back to England. Representative John Jalbert, who spent the cold winter in the Ardennes and fought the Nazis. Ernie Greenlaw, who fought the Nazis in North Africa, and knew what it was like to be strafed by a Nazi pilot in a fighter. Representative Bob Carrier, who as an officer in the Merchant Marine, went across the North Atlantic and fought against the U-boats that supplied Europe in the early days of the war. Representative Earl Nicholson, who put our young Marines ashore at Tarroa.

I would like to mention these men here today because they are part of this story. They believed that the sacrifice was worth fighting for, not only to overthrow the Germans but because the motive was much greater than that. Some of these men stormed the shore at Normandy and the goal was certainly to end the tyranny of the Nazi regime.

I think as we should adjourn today, we should remember these heroes that sacrificed and many of their friends are not here today.

The SPEAKER: The Chair recognizes the Representative from St. George, Representative Scarpino.

Representative SCARPINO: Mr. Speaker, Men and Women of the House: (Hebrew text.) Translation: Today, we must show the world it is important, it is important that we remember. (Hebrew text.) Translation: Today, it is also important that we remember there is still a war. (Hebrew text.) Translation: There is a war of terrorists against Jews, against friends, and against all people. (Hebrew text) Translation: Yes, it is important that we speak. (Hebrew text) Translation: We only speak. (Hebrew text) Translation: They speak with guns. The holocaust is still here. It is still going on. We should pay very careful attention, because the time may not be very far away when we have to stop speaking with words and once again start speaking with guns.

Subsequently, the Resolution was adopted. Sent up for concurrence.

By unanimous consent, was ordered sent forthwith to the Senate.

On motion of Representative PARADIS of Augusta, the following Joint Resolution: (H.P. 1612) (Cosponsors: Representative JACQUES of Waterville,

Speaker MARTIN of Eagle Lake and Senator KANY of Kennebec)

JOINT RESOLUTION TO HONOR THE MOST
REVEREND DONALD E. PELOTTE, SSS, SON
OF MAINE AND FIRST NATIVE AMERICAN BISHOP

WHEREAS, the people of Maine have learned that their native son from Waterville, Father Donald E. Pelotte, SSS, has been appointed by His Holiness, Pope John Paul II, to be the Coadjutor Bishop of the Diocese of Gallup, New Mexico; and

WHEREAS, the selection of Father Pelotte signifies the first time that a native American, descendent of the Abnaki Tribe, has been chosen to be a member of the American Catholic Hierarchy; and

WHEREAS, Father Pelotte is also a proud descendent of French-Canadian immigrants in the Central Maine area; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twelfth Legislature of the great sovereign State of Maine, now assembled at the seat of government in Augusta, take this special opportunity to extend our joyous congratulations to Bishop-Elect Donald E. Pelotte, SSS, on the occasion of his ordination as Bishop; and be it further

RESOLVED: That we join his family and friends of Waterville and of the entire State of Maine, asking God's blessing upon his ministry to our native American population.

Was read.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Paradis.

Representative PARADIS: Mr. Speaker, Men and Women of the House: I wanted to make brief mention this morning as we look at this Joint Resolution and take special note that this is the first time in the history of the United States that a native American has been so chosen among the ranks of the priesthood to be elevated to the order of Bishop in the Catholic Church. It is a special designation also, as a son of Franco-American immigrants, to note that it is only the second time a Franco-American has been so chosen to be elevated to the order of Bishop.

We have with us this morning, purely by a happy coincidence, the chaplain who was instrumental in guiding this young man from Waterville into the priesthood, Father Gilbert, a native of Waterville. I was very happy to see Father this morning and see him here as our chaplain.

I urge that we all adopt this Resolution. I am sure that Father will be taking a copy from all us to the new Bishop of Gallup, New Mexico when he goes out there in May for the ordination.

The SPEAKER: The Chair recognizes the Representative from the Penobscot Nation, Representative Attean.

Representative ATTEAN: Mr. Speaker, Ladies and Gentlemen of the House: I rise today to offer the congratulations of the Penobscot Nation to Father Pelotte on his elevation to Bishop. Our community has been filled with a sense of pride in Father Pelotte. It was a great day for all native Americans on learning of Father Pelotte's appointment. Father

Pelotte, a descendant of the Abnaki Tribe and a member of the Algonquin Confederacy, is a distant blood cousin of the Maine Indians, the Penobscots and the Passamaquoddys. Father Pelotte will be remembered in our hearts and prayers forever.

Subsequently, the Resolution was adopted. Sent up for concurrence.

SPECIAL SENTIMENT CALENDAR

Recognizing:

and extending our heart felt thanks to Henry Bourgeois and Meredith Jones, of the Maine Development Foundation, for their outstanding planning and execution of the 1986 Economic Tours of the State of Maine. This unique opportunity for a close and personal view of components of the Maine economy and the campuses of the University System has given Legislators a greater awareness of the entire State and will be reflected in a broader view for many in the years to come; (HLS 877) by Representative O'GARA of Westbrook. (Cosponsors: Representative INGRAHAM of Houlton and Senator DOW of Kennebec)

On motion of Representative O'Gara of Westbrook, was removed from the Special Sentiment Calendar.

Was read.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Men and Women of the House: That brief but sincere sentiment just read by the Clerk, although officially carrying the names of three sponsors, could have in truth been sponsored by over 100 members of the Maine State Legislature because we all share the feelings that it attempts to express to Henry and to Meredith, and through them, to all of those who played any part on the tours.

Time does not permit, and it would take a lot of time, to adequately recount the experiences or explain the impact of the four economic tours which it had, on the legislators who attended one or more of the tours. The experiences were many and the impact has been, and I sincerely hope will be in the future, truly significant. We believe the knowledge gained from the actual visitations to industries, campuses, farms and businesses will help us better react to legislation that comes before us in the future.

We were impressed by the great numbers of men and women who came out all over the state to spend time with us and talk with us about their part of this great state and what their economy was all about and to share their successes and failures, their problems, needs, and ideas with us.

For those of who like to eat -- collectively our appetite was enormous -- the receptions and dinners were outstanding as were the conversations and programs on each occasion. We all saw places and things we had never seen. We all heard and listened to the people of our economy, talking about that economy in a way that cannot be fully grasped just by reading about it. We all came away more convinced than ever about the beauty of our state, the

specialness of our state, and perhaps more importantly, we came away with the strength and pride in and the admiration for, the people of our state.

I think we all agree some wonderfully exciting things have happened and are happening throughout the state. I also believe we all agree there is much to be done, and although we may disagree on how it is to be done, we have made a commitment to do the things that need to be done to bolster the economy of Maine.

Finally, one bonus that Henry and Meredith may not have included on the list of things they hoped the tours would accomplish — the tours gave all of us an opportunity, if we wanted to take it, of getting to know each other better.

From a freshman legislator's point of view, I feel that the tours reduced dramatically the period of time it might normally take for many of us to get the chance to have a conversation of any length with other legislators about things other than a bill that is coming up on the floor. That was a special part of the tour for me and I value that opportunity.

It is an important part of our system that there be a Democratic view or position, and a Republican view or position. I accept that and I enjoy it, but it was especially obvious on the tours that we were simply Maine legislators touring the state together, interested in what we were doing, and enjoying the company of those we were doing it with.

For all of that and more, Henry and Meredith, we all thank you. It was a great experience.

Subsequently, the Order was passed and sent up for concurrence.

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative SWAZEY from the Committee on Taxation on Bill "An Act Relating to the Taxation of Insurance Premiums" (H.P. 1397) (L.D. 1971) reporting "Ought Not to Pass"

Was placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

Unanimous Leave to Withdraw

Representative CARTER from the Committee on Appropriations and Financial Affairs on RESOLVE, to Provide Financial Assistance for Existing Programs within the University of Maine System (H.P. 1343) (L.D. 1880) reporting "Leave to Withdraw"

Representative FOSTER from the Committee on Appropriations and Financial Affairs on Bill "An Act Pertaining to Fort Point State Park" (H.P. 1341) (L.D. 1878) reporting "Leave to Withdraw"

Were placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

Ought to Pass in New Draft

LATER TODAY ASSIGNED

Representative CASHMAN from the Committee on Taxation on Bill "An Act to Conform State Income Tax Laws Relative to Premature Retirement Plan Distributions" (H.P. 1403) (L.D. 1979) reporting "Ought to Pass" in New Draft (H.P. 1609) (L.D. 2265)

Report was read.

On motion of Representative Cashman of Old Town, tabled pending acceptance of the committee report and later today assigned.

Ought to Pass in New Draft

Representative REEVES from the Committee on Legal Affairs on Bill "An Act Concerning Private Adoptions" (H.P. 1499) (L.D. 2112) reporting "Ought to Pass" in New Draft (H.P. 1605) (L.D. 2262)

Report was read and accepted, the New Draft given its first reading and assigned for second reading later in today's session.

Ought to Pass in New Draft

Representative KIMBALL from the Committee on Human Resources on Bill "An Act to Provide Medicaid Coverage for Mental Health Services for Children in Certain Hospital Facilities" (H.P. 1348) (L.D. 1884) reporting "Ought to Pass" in New Draft (H.P. 1610) (L.D. 2267)

Report was read and accepted, the New Draft given its first reading and assigned for second reading later in today's session.

Ought to Pass in New Draft

Representative HICHBORN from the Committee on State Government on Bill "An Act Relating to Boards and Commissions" (H.P. 1424) (L.D. 2013) reporting "Ought to Pass" in New Draft (H.P. 1614) (L.D. 2269)

Report was read and accepted, the New Draft given its first reading and assigned for second reading later in today's session.

PASSED TO BE ENGROSSED

LATER TODAY ASSIGNED

RESOLVE, to Permit Edgar Warren to Sue the State for Compensation for Injuries Incurred While He was a Ward of the State (H.P. 1377) (L.D. 1940)

Was reported by the Committee on Bills in the Second Reading and read the second time.

On motion of Representative Reeves of Pittston,

tabled pending passage to be engrossed and later today assigned.

As Amended

Bill "An Act to Increase the Amount of Insurance for Vehicles Used in Transporting Students" (S.P. 830) (L.D. 2090) (S. "A" S-433)

Was reported by the Committee on Bills in the Second Reading, read the second time and Passed to be Engrossed as Amended in concurrence.

ORDERS OF THE DAY

The Chair laid before the House the first tabled and today assigned matter:

HOUSE DIVIDED REPORT - Majority (11) "Ought to Pass" in New Draft under New Title Bill "An Act to Improve Lobster Research and Management" (H.P. 1597) (L.D. 2248) - Minority (2) "Ought Not to Pass" - Committee on Marine Resources on Bill "An Act to Raise the Minimum Legal Size of Lobsters" (H.P. 513) (L.D. 718)

TABLED - March 26, 1986 by Representative HAYDEN of Brunswick.

PENDING - Motion of Representative CROWLEY of Stockton Springs to accept the Majority "Ought to Pass" in New Draft under New Title Report.

Subsequently, the Majority "Ought to Pass" Report was accepted, the Bill read once and assigned for second reading tomorrow.

The Chair laid before the House the second tabled and today assigned matter:

An Act to Extend the Trust Land Designation of the Penobscot Nation (S.P. 721) (L.D. 1844) (S. "A" S-412 to C. "A" S-402)

TABLED - March 26, 1986 by Representative CASHMAN of Old Town.

PENDING - Passage to be Enacted.

On motion of Representative Cashman of Old Town, retabled pending passage to be enacted and later today assigned.

The Chair laid before the House the third tabled and today assigned matter:

An Act to Modernize the Telephone Excise Tax (H.P. 1595) (L.D. 2240)

TABLED - March 26, 1986 by Representative CASHMAN of Old Town.

PENDING - Passage to be Enacted.

On motion of Representative Cashman of Old Town, retabled pending passage to be enacted and later today assigned.

The following item appearing on Supplement No. 1 was taken up out of order by unanimous consent:

CONSENT CALENDAR

FIRST DAY

In accordance with House Rule 49, the following item appeared on the Consent Calendar for the First Day:

(H.P. 1483) (L.D. 2095) Bill "An Act to Establish the Maine State Parks Development Fund" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-605)

There being no objections, the above item was ordered to appear on the Consent Calendar later in today's session under the listing of Second Day.

The following item appearing on Supplement No. 2 was taken up out of order by unanimous consent.

PAPER FROM THE SENATE

The following Joint Order: (S.P. 901)

ORDERED, the House concurring, that when the House and Senate adjourn, they adjourn to Monday, March 31, 1986 at 9:00 in the morning.

Came from the Senate, read and passed.

Read and passed in concurrence.

(Off Record Remarks)

By unanimous consent all matters having been acted upon requiring Senate concurrence were ordered sent forthwith to the Senate.

On motion of Representative Joseph of Waterville, Recessed until four-thirty o'clock in the afternoon.

(After Recess)

The House was called to order by the Speaker.

The following item appearing on Supplement No. 1 was taken up out of order by unanimous consent.

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Human Resources on Bill "An Act Relating to Medicaid Fees for Pharmacies" (H.P. 1347) (L.D. 1883) reporting "Ought to Pass" in New Draft (H.P. 1611) (L.D. 2268)

Signed:

Senators: GILL of Cumberland
BUSTIN of Kennebec
GAUVREAU of Androscoggin

Representatives: CARROLL of Gray
SEAVEY of Kennebunkport
MELENDY of Rockland
PINES of Limestone
ROLDE of York
NELSON of Portland
KIMBALL of Buxton

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.

Signed:

Representatives: TAYLOR of Camden
MANNING of Portland

Representative SIMPSON of Casco - of the House - Abstaining

Reports were read.

Representative Nelson of Portland moved that the House accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Manning.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I would like to explain why I am on the Minority Report. We had a study done by the Department of Human Services dealing with the Medicaid program. It just seemed to me that at this particular stage in the state's history that it would be very difficult to come up with this extra 25 cents. Therefore, I just felt that, at this stage of the game, I would rather put monies into other programs and just keep the same program going that is presently in existence right now. That is the reason why I voted this bill "Ought Not to Pass."

The SPEAKER: The Chair recognizes the Representative from Camden, Representative Taylor.

Representative TAYLOR: Mr. Speaker, Men and Women of the House: L.D. 2268 proposes to raise the fees to pharmacies for filling medicaid prescriptions from \$3.20 to \$3.45.

I think today it is important to bear in mind that this recommendation does not, in my mind, speak to the real issue. The real issue for me is that the pharmacist does not automatically receive this fee in the amount of \$3.20 or \$3.45. A fee implies to me an exact payment, that is, when a pharmacist puts up a medicaid prescription, he receives a fee from the state, paid in fact, partly by federal dollars, regardless of the cost of the medication. Naturally, I am not surprised that it is nowhere near this clear.

The pharmacist in your town may feel that his problems have not been eliminated by this change. That is because the payment to the pharmacist from

the state takes into account many factors to determine what the actual payment may be. The dollars paid to the pharmacist is part of a very complicated formula taking into account what the general public pays for the same medication. The state declares that they are controlled by federal guidelines. Federal personnel tell me that the state treats the guidelines differently. I would expect that your pharmacies would urge you to support this bill. However, I hope that we will follow this problem to be clearer as how we do respond to the federal mandate. The medicaid proportion of pharmacy business is between 15 and 20 percent statewide. I feel it is something we need to be interested in, in the future.

Subsequently, the Majority "Ought to Pass" Report was accepted, the bill read once and assigned for second reading Monday, March 31, 1986.

The following item appearing on Supplement No. 3 was taken up out of order by unanimous consent:

ORDERS

On motion of Representative DIAMOND of Bangor, the following Joint Order: (H.P. 1620)

Ordered, the Senate concurring, that Bill, "AN ACT Concerning State Contribution to Pollution Abatement," H.P. 1469, L.D. 2071, be recalled from the Governor's desk to the House.

Was read, passed and sent up for concurrence.

By unanimous consent, was ordered sent forthwith to the Senate.

The following items appearing on Supplement No. 3 were taken up out of order by unanimous consent:

PAPERS FROM THE SENATE

Non-Concurrent Matter

Bill "An Act to Create a Noncommercial Scallop License and to Adjust Fees for the Scallop Boat License" (H.P. 1537) (L.D. 2173) which was Passed to be Enacted in the House on March 25, 1986.

Came from the Senate Passed to be Engrossed as amended by Senate Amendment "A" (S-438) in non-concurrence.

The House voted to recede and concur.

COMMUNICATIONS

The following Communication:

STATE OF MAINE
ONE HUNDRED AND TWELFTH LEGISLATURE
COMMITTEE ON MARINE RESOURCES

March 27, 1986

The Honorable John L. Martin
Speaker of the House
112th Legislature

Dear Speaker Martin:

We are pleased to report that all business which was placed before the Committee on Marine Resources during the second regular session of the 112th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received:	16
Unanimous reports	13
Leave to Withdraw	4
Ought to Pass	3
Ought Not to Pass	0
Ought to Pass as Amended	4
Ought to Pass in New Draft	2
Divided reports	3

Respectfully submitted,

S/Jean B. Chalmers S/Nathaniel J. Crowley, Sr.
Senate Chair House Chair

Was read and ordered placed on file.

PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE

The following Bills were received and, upon the recommendation of the Committee on Reference of Bills, were referred to the following Committees, Ordered Printed and Sent up for Concurrence:

LATER TODAY ASSIGNED

Bill "An Act Relating to the Labeling of Milk" (H.P. 1616) (Presented by Representative MICHAEL of Auburn) (Cosponsors: Representatives PARENT of Benton and TARDY of Palmyra) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

(The Committee on Agriculture was suggested)

On motion of Representative Allen of Washington, tabled pending reference and later today assigned.

Appropriations and Financial Affairs

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$14,500,000 for Sewer Treatment Facilities and Storage of Road Salt and Sand" (H.P. 1617) (Presented by Representative MAYO of Thomaston) (Cosponsors: Senator BROWN of Washington and Representative RICE of Stonington)

(Ordered Printed)
Sent up for concurrence.

CONSENT CALENDAR

FIRST DAY

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the First Day:

(S.P. 778) (L.D. 1959) Bill "An Act to Clarify the Procedure for Appeals of Decisions of the Public Utilities Commission" Committee on Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (S-435)

(H.P. 1418) (L.D. 2007) Bill "An Act to Amend the Maine Implementing Act with Respect to the Houlton Band of Maliseet Indians" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-607)

(H.P. 1439) (L.D. 2030) RESOLVE, Directing the Director of the Bureau of Public Lands to Convey the State's Interest in Certain Lands Surrounding Little Sebago Lake Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-609)

(H.P. 1559) (L.D. 2198) Bill "An Act to Improve the Management of Maine's Forest Recreation Resource" Committee on Energy and Natural Resources reporting "Ought to Pass"

There being no objections, the above items were ordered to appear on the Consent Calendar of Monday, March 31, 1986 under the listing of Second Day.

CONSENT CALENDAR

SECOND DAY

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the Second Day:

(H.P. 1483) (L.D. 2095) Bill "An Act to Establish the Maine State Parks Development Fund" (C. "A" H-605)

No objections having been noted at the end of the Second Legislative Day, the House Paper was Passed to be Engrossed as Amended and sent up for concurrence.

PASSED TO BE ENGROSSED

Bill "An Act Concerning Private Adoptions" (H.P. 1605) (L.D. 2262)

Bill "An Act to Provide Medicaid Coverage for Mental Health Services for Children in Certain Hospital Facilities" (H.P. 1610) (L.D. 2267)

Bill "An Act Relating to Boards and Commissions" (H.P. 1614) (L.D. 2269)

Were reported by the Committee on Bills in the Second Reading, read the second time, Passed to be Engrossed, and sent up for concurrence.

As Amended

Bill "An Act to Enhance the Protection of Mental Health Recipients' Rights" (Emergency) (S.P. 896) (L.D. 2253) (S. "A" S-434)

Was reported by the Committee on Bills in the Second Reading, read the second time, the Senate Paper was Passed to be Engrossed as Amended in concurrence.

PASSED TO BE ENACTED

Emergency Measure

An Act to Deorganize Plantation 14 (S.P. 833) (L.D. 2115) (C. "A" S-428)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 113 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Authorize the Creation of Detention Districts (H.P. 1434) (L.D. 2025) (C. "A" H-597)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 117 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

TABLED AND ASSIGNED

An Act Concerning Liability Insurance for Commercial Whitewater Outfitters (H.P. 1600) (L.D. 2254)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

The SPEAKER: The Chair recognizes the Representative from Wilton, Representative Armstrong.

Representative ARMSTRONG: Mr. Speaker, Men and Women of the House: I just happened to glance at the Statement of Fact on this L.D. and I would just like

a brief explanation from someone on the committee on what this bill does.

It looks to me like we are exempting them from liability insurance, which I have no problem with, but the requirement to be exempted is that they receive some kind of a written statement from their insurance carrier saying that liability insurance isn't available. Well, it may not be available through that particular insurance carrier but I assume, somewhere at some price, liability insurance would be available. I would just like to have an explanation of how that would work.

The SPEAKER: Representative Armstrong of Wilton has posed a question through the Chair to any member of the Judiciary Committee who may respond if they so desire.

The Chair recognizes the Representative from Washington, Representative Allen.

Representative ALLEN: Mr. Speaker, Men and Women of the House: The original bill that came before the Judiciary Committee asked us to make some serious changes in Tort Law regarding liability for whitewater rafters. We believed, at that point in time, that we didn't have sufficient evidence to warrant such a change.

As it now stands, by regulations in the Fisheries and Wildlife Department, they require that whitewater rafters carry liability insurance. That is done by rules and regulations, not by state law. The problem that was bothering the Judiciary Committee was that currently in the State of Maine — and I guess across the country — liability insurance is unavailable for whitewater rafters. They are known as the surplus lines and there are no surplus lines carriers that provide this particular type of insurance coverage. In order for a whitewater rafting outfitter to be licensed in the State of Maine, they must comply with the rules and regulations. So, if the rules and regulations say you must carry liability insurance in order to be licensed and they can't buy liability insurance, we were faced with putting the whitewater rafting industry out of business in this state, period. There were some people who thought that might be a good idea. But overall, as long as this legislature is concerned with economic development, we fought very hard within a subcommittee to try to come up with a reasonable way of allowing them to operate without liability insurance, if they so chose, without, in fact, legislating them out of business through rules and regulations.

So, what we have said is that you must have liability insurance, if it is available. If it is not available, you have to show proof to the department that it is in fact unavailable. You must also notify your customers prior to the time that they journey to where ever you are operating out of so they have plenty of opportunities to know that you do not carry liability. That notice must be conspicuous, you can't hide it on a tiny little line at the bottom of the brochure, and they must give you adequate notice that they do not carry liability insurance.

If liability insurance becomes available at any time, at any time, then this waiver is no longer in effect and they must carry liability insurance.

I might add, in talking to the whitewater rafters, they don't want to run without liability insurance. They want liability insurance, they are willing to pay whatever premiums they must to get liability insurance. The simple fact of the matter

remains, right now, that nobody will cover whitewater rafting outfitters in the State of Maine. That may change next week or the week after or whatever.

So, we provided a mechanism for them to operate if they so choose without insurance. Virtually, they are not the only industry that has come to the Judiciary Committee this year with problems regarding liability. Another step we have taken is to pass a bill that would set up a commission to study both Tort reform and insurance liability. We felt we were adequately addressing the problem and yet safeguarding the interests of the state and the consumer.

The SPEAKER: The Chair recognizes the Representative from Monmouth, Representative Davis.

Representative DAVIS: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question, if I may.

I would like to ask Representative Allen, if the committee is assuming that if they have this signed and displayed, that they will not be sued?

The SPEAKER: Representative Davis of Monmouth has posed a question through the Chair to anyone who may respond if he so desire.

The Chair recognizes the Representative from Pittsfield, Representative McGowan.

Representative MCGOWAN: Mr. Speaker, Ladies and Gentlemen of the House: As the sponsor of the bill and the former Chairman of the Joint Select Committee on Whitewater Rafting, I would tell the gentleman who posed the question that they realize that they still may be sued and we know, as legislators, that you can not sign away your liabilities. They are, in my words, very fearful of the consequences which result in them not having liability insurance, just as any of us in small businessmen would be afraid of not having liability insurance.

All they know right now is, it is not available to them and the regulation in the Department of Fish and Wildlife require them to have it.

The SPEAKER: The Chair recognizes the Representative from Monmouth, Representative Davis.

Representative DAVIS: Mr. Speaker, Ladies and Gentlemen of the House: I would like to further inquire, if the Department of Inland Fisheries and Wildlife might not accept some liability in this case, if they didn't require these whitewater rafters to have such coverage?

The SPEAKER: Representative Davis of Monmouth has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Washington, Representative Allen.

Representative ALLEN: Mr. Speaker, Men and Women of the House: I am not sure I can respond to that question per se but I might add that the State of Maine, through rules and regulations, do not require other industries, — they don't require doctors or lawyers or even motorists to carry liability insurance — so, I do not believe that by providing this waiver for the whitewater rafting industry that we are going to, in any way, cause the State of Maine to assume some sort of liability or the department for that matter.

The SPEAKER: The Chair recognizes the Representative from Monmouth, Representative Davis.

Representative DAVIS: Mr. Speaker, Ladies and Gentlemen of the House: I just can't see why that the regulation wasn't changed, not requiring them to have the liability coverage — then you wouldn't have

had to have this bill.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Jacques.

Representative JACQUES: Mr. Speaker, Men and Women of the House: I will try to answer that question.

When members of the Judiciary Committee approached myself as House Chair of Fish and Wildlife, I objected to the department doing that for the basic concern that Representative Davis has brought up. I felt that if that is what the legislature wanted to do, then the legislature should do that.

I was also approached by one of the Governor's staff who asked how I felt about the whole thing and he said that we should change our rules to remove that requirement. I said, if you want to do that, then you send a memo to the department ordering us to do so, but I would be advising my deputy commissioner and chief warden against doing that very thing. I still have some concerns on whether or not the department, who is in the business of issuing this license and saying that your trip, your outfit, is okay to carry these trips, will not expose themselves to some possible ramifications later on.

I did agree with what the Judiciary Committee came out with because, if that is the way the legislature wants to go, then that is the way we will go.

What Representative Allen said effectively was, that through the licensing process to get a license, you need a license to get an allocation to run the river. Without the allocation, you cannot run the river. Without the license, you cannot get the allocation and the license is not issued under the present rules without, first, proof of liability insurance which is something that the Joint Select Committee on Whitewater Rafting put in way back when we thought it was necessary to make sure that the people who came here from out of state — that thought these guys knew everything there was to know about what they were doing, would be protected in the case that they didn't know everything there was to know.

Don't kid yourself, it is an extremely dangerous sport and I still feel that, sooner or later, we are going to lose somebody up there and I really don't believe anybody is going to be running without that liability insurance.

The concern I had, which I think was addressed, was, if an outfitter had let's say, \$100,000 worth of assets and somebody does get hurt without insurance, what are they going to do? They are going to go take that \$100,000 worth of assets. But let's say they are crippled for life and the award is a million dollars, where are they going to go after that? I had a concern they may come back to Fish and Wildlife, that is why I was opposed to changing the rules and I think the Deputy Commissioner felt the same way. We were more comfortable going the way the Judiciary Committee went.

I still have some concerns about it but I agreed with what they did and, if this legislature passes it, then I think that will at least take some of the burden off my department.

The SPEAKER: The Chair recognizes the Representative from Wilton, Representative Armstrong.

Representative ARMSTRONG: Mr. Speaker, Men and Women of the House: I have no doubt whatsoever that

liability insurance is very difficult, if not impossible, to get for these whitewater rafters. However, in the real world, I doubt if this is going to be a solution. Insurance agents, as you know, like most professionals, can't afford to be in business without carrying errors and omissions insurance. Normally, agents represent several companies, at least under the independent agent system. For an agent to give a written statement to a whitewater rafter, that insurance is not available at any price, from any source, I would think the agent would leave himself wide open to all kinds of liability problems, if someone is, in fact, hurt and the whitewater rafter is sued and he finds out that somewhere, somehow, insurance could have been bought at some price through excess and surplus markets.

The second thing, I think we may be deluding the public here a little bit, because when some people take these whitewater rafting trips and they get the disclosure statement that says the whitewater rafter, in fact, carries no liability insurance, they may be assuming falsely that they have no recourse against the whitewater rafter, if they are hurt or injured. I can't imagine any insurance agent exposing himself to the possible liability of giving a written statement to any whitewater rafter saying that -- yes, there is no insurance available at any price, from any source.

The second thing is, I am afraid that we may be deluding the public into thinking that, just because the whitewater rafter has no insurance, that they have no recourse.

I agree with the Representative from Monmouth who said, the only practical solution here is, if we want to keep this industry going and they are willing to assume the liability themselves, is to exempt them from the regulation that requires them to carry liability insurance. They know they are out there on a limb all by themselves. Maybe we ought to have a disclosure statement telling the public, we don't carry any liability insurance, but that doesn't mean that you can't take us for all we are worth.

I think this bill has real problems and I understand what you are trying to do and I probably would have no idea where to go to look for whitewater rafter coverage from the surplus and excess market but I think it poses a real problem to insurance agents in complying with writing this letter. I think it deludes the public and I guess I would have to ask for a roll call on this bill.

The SPEAKER: The Chair recognizes the Representative from Dover-Foxcroft, Representative Law.

Representative LAW: Mr. Speaker, Ladies and Gentlemen of the House: I would pose a question. I am confused now, is the whitewater rafting insurance a requirement by law?

The SPEAKER: Representative Law of Dover-Foxcroft has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Washington, Representative Allen.

Representative ALLEN: Mr. Speaker, Men and Women of the House: The answer to the question is, the rules and regulations of the department says they must carry liability insurance in order to be licensed.

As I said previously, the bill was originally brought to the committee in hopes that the committee would change laws regarding liability Tort claims.

What they wanted us in committee to say was, if the whitewater rafting industry or the provider of the trip met all of the safety standards that we, as a legislature, through the commission that Representative McGowan chaired, if they do all of the safety requirements that are asked of them, that there would be a presumption, a presumption that would have to be overcome by those filing suit against the whitewater outfitters.

We said we could not do that. We said that we would not make that change because there was no guarantee, there was no statement from any insurance carrier anywhere in this country, that would reduce rates or even allow liability insurance to become available.

If you do not enact this piece of legislation today, whitewater rafters will not be able to become licensed for this upcoming season which I believe opens April 1st, and you will, in effect, shut down the whitewater industry in the State of Maine. Now, if that is what you want to do, then by all means, do that. I am vehemently opposed to that. We have worked very hard as a committee to come out with this unanimous report that we hope will provide for the cares we have as a legislature for those people who are taking whitewater rafting trips and that is a dangerous sport. There is not one person in this room that wouldn't say there is something inherently dangerous in doing that. However, the fact is that the person taking that trip, I believe, has to assume some of the responsibility of being an intelligent person realizing that this rafting trip that they are about to take has some degree of danger to it.

I might add, we were given a list of casualties, I believe, for the year 1981 or 1982. There were about 16 to 20 injuries that had been reported from all of the rafting outfitters in the state. There were only about 20 injuries and some of those included a bump or a bruise. There were no serious injuries -- the most serious injury was a broken leg.

Out of all the whitewater rafting industry, there has been one suit, one suit since they have been in operation in this state and it was settled for \$2,500.

I believe the whitewater rafters in this state are providing as safe a journey as possible for the people that are their customers. I believe that they make efforts to do that, not only because they want to, but because the state legislature has said in the past that they must maintain certain safety standards. As a matter of fact, a lot of them go above and beyond that.

If you vote against this bill today, you will, in effect, not allow any whitewater rafters to become licensed as of April 1st, and will, in effect, put them out of business. I, for one, am not willing to take that chance.

I believe that we have crafted a law that allows for a reasonable waiver and I just have to underscore the fact that those whitewater rafters want to carry liability insurance. They will pay whatever they need to pay in order to carry that liability insurance. Granted, they will pass that cost off to their customers, but they want liability insurance. They are faced with two alternatives, either they run without liability insurance or they are out of business or they run without liability insurance and risk it all. They do not want to run the rivers without liability insurance, they can not find any surplus line carriers at this point in time, (that

may change next week) that will cover them.

The department is aware of what companies, in fact, cover these surplus lines. I might add, when the committee asked one of the representatives from one of the surplus lines insurers to address the committee's concerns about insurability, they refused to even talk to us. It wasn't that we weren't asking, it wasn't that we weren't trying, there was one company that simply wrote us a note saying, we are not at this time covering that type of insurance. Another company said simply, we don't want to talk to you.

The Judiciary Committee worked hard, we believe we have crafted a bill that meets everyone's concerns and I would urge you on the roll call to support the committee.

The SPEAKER: The Chair recognizes the Representative from Monmouth, Representative Davis.

Representative DAVIS: Mr. Speaker, Men and Women of the House: I want to apologize for getting on my feet so many times. I want to commend the committee for the hard work they did on this bill, it is just that I see some terrific flaws in this bill where an industry in our state could go down the drain.

Secondly, I can see where the State of Maine could be hit with millions of dollars in suits.

I would like to table this bill until we get some opinions from the legal fraternity as to where we would stand, both the state and industry.

I move we table this bill.

On motion of Representative Murphy of Kennebunk, tabled pending passage to be enacted and specially assigned for Monday, March 31, 1986.

PASSED TO BE ENACTED

Emergency Measure

An Act to Amend the Charter of the Brunswick Sewer District (H.P. 1602) (L.D. 2256)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 113 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

ENACTOR

TABLED AND ASSIGNED

An Act to Facilitate the Collection of Child Support (S.P. 887) (L.D. 2246)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

On motion of Representative Allen of Washington, tabled pending passage to be enacted and specially assigned for Monday, March 31, 1986.

ENACTOR

TABLED AND ASSIGNED

An Act to Bring into Conformity Municipal and State Subdivision Laws (H.P. 872) (L.D. 1229) (C. "A" H-572)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

On motion of Representative Michaud of Medway, tabled pending passage to be enacted and specially assigned for Monday, March 31, 1986

PASSED TO BE ENACTED

An Act Permitting Municipalities to Require that a Payment on Taxes be Applied Toward the Oldest Outstanding Taxes (H.P. 1596) (L.D. 2247)

An Act to Study Establishment of an Emergency 9-1-1 System in Heavily Populated Areas (H.P. 1601) (L.D. 2255)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

The Chair laid before the House the following matter: Bill "An Act Relating to the Labeling of Milk" (H.P. 1616) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27) which was tabled earlier in the day and later today assigned pending reference.

Subsequently, was referred to the Committee on Agriculture, ordered printed, and sent up for concurrence.

PASSED TO BE ENGROSSED

The Chair laid before the House the following matter: RESOLVE, to Permit Edgar Warren to Sue the State for Compensation for Injuries Incurred While He was a Ward of the State (H.P. 1377) (L.D. 1940) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

Representative Baker of Portland offered House Amendment "A" (H-610) and moved its adoption.

House Amendment "A" (H-610) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Baker.

Representative BAKER: Mr. Speaker, Men and Women of the House: I just want to explain briefly what this amendment is going to do and then explain briefly why I presented it. This amendment essentially strikes out most of the bill and essentially will reimburse Mr. Warren \$25,000 for the loss of his hand.

I do not offer this amendment frivolously. I offer this amendment after consulting with the Department of Corrections and consulting with the Attorney General's Office. It was upon a

recommendation in a letter from the Department of Corrections and a recommendation from the Attorney General that I pursue this route. That is why I am offering this amendment in the hopes that, even though this is probably a very small sum compared to what it is to lose your hand, it would represent something to make up for the injustice that was done to Mr. Warren, while the state was his legal guardian.

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, Men and Women of the House: I would like to pose a question to the Representative from Portland. Will this grant be an outright grant to the individual or would it be set up in trust or in a pro-rated amount?

The SPEAKER: The Representative from Lisbon, Representative Jalbert, has posed a question through the Chair to the Representative from Portland, Representative Baker, who may respond if he so desires.

The Chair recognizes that Representative.

Representative BAKER: Mr. Speaker, Men and Women of the House: I have consulted with an attorney, who was the person acting on Mr. Warren's behalf. He said that this was fine. This is an outright grant. That is it. It is a final settlement, the amount you see on the amendment. That is essentially what it would be.

Subsequently, House Amendment "A" was adopted.

The Resolve was passed to be engrossed as amended by House Amendment "A" and sent up for concurrence.

The Chair laid before the House the following matter: "An Act to Extend the Trust Land Designation of the Penobscot Nation (S.P. 721) (L.D. 1844) (S. "A" S-412 to C. "A" S-402) which was tabled earlier in the day and later today assigned pending passage to be enacted.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Cashman.

Representative CASHMAN: Mr. Speaker, Men and Women of the House: The reason this was tabled was the question was raised whether this would require reimbursement by the state to the city of Old Town for land lost or property taxes lost by land being designated as a trust land for the Penobscot Nation.

After researching that issue today, I think that it has a very remote possibility. The only way that could happen would be if the land was placed in trust and then used by the Penobscot Nation for governmental purposes. That is not the intent of this bill. The purpose of this bill as far as the city of Old Town is concerned is to develop an industrial park. They will pursue that end and certainly not make any applications to the State of Maine for reimbursement under property tax provisions of the Constitution.

After researching that problem, I feel that there isn't any exposure here to the State.

Subsequently, the bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The Chair laid before the House the following matter: An Act to Modernize the Telephone Excise Tax (H.P. 1595) (L.D. 2240) which was tabled earlier in the day and later today assigned pending passage to

be enacted.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Cashman.

Representative CASHMAN: Mr. Speaker, Men and Women of the House: This item was tabled for the same reason. This is a rather complicated bill that deals with the telecommunications tax and one of the aspects of the bill is that it extends the gross receipts tax to MCI and SPRINT and other new companies that are involved in telecommunications.

Previously, this tax was only applied to AT&T and NET. These other companies that have come forth since the breakup of the Bell system were escaping the tax. As we extended our gross receipts tax, the question was raised because of the fact these companies are not subject to property taxes, if by extending the gross receipts tax, we were providing an exemption for which the state would have to reimburse the communities.

At the present time, if this bill passes, neither MCI or SPRINT have anything in the state that is subject to the property tax to the best of our knowledge so there is no need for reimbursement because there is nothing being taxed presently.

Subsequently, the bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The Chair laid before the House the following matter: Bill "An Act to Conform State Income Tax Laws Relative to Premature Retirement Plan Distributions" (H.P. 1403) (L.D. 1979) reporting "Ought to Pass" in New Draft (H.P. 1609) (L.D. 2265) which was tabled earlier in the day and later today assigned pending acceptance of the Committee Report from the Committee on Taxation.

Subsequently, the Committee Report was accepted, the bill read once read once and assigned for Second Reading, Monday, March 31, 1986.

The Chair laid before the House the following matter: Bill "An Act to Revise the Energy Building Standards Act" (H.P. 1385) (L.D. 1954) on which the Majority "Ought Not to Pass" Report of the Committee on Energy and Natural Resources was read and accepted in the House on March 25, 1986, which was tabled earlier in the day and later today assigned pending further consideration.

(Comes from the Senate, with the Minority "Ought to Pass" as amended Report of the Committee on Energy and Natural Resources read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-598) in non-concurrence.)

Representative Michaud of Medway moved that the House Insist and ask for a Committee of Conference.

Representative Brown of Livermore Falls moved to Adhere and requested a division.

The SPEAKER: The pending question before the House is the motion of Representative Michaud of Medway that the House Insist and ask for a Committee of Conference. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative Mitchell of Freeport requested a roll call.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is the motion of the Representative from Medway, Representative Michaud, that the House insist and ask for a Committee of Conference. Those in favor will vote yes; those opposed will vote no.

63 having voted in the affirmative and 67 in the negative with 21 being absent, the motion did not prevail.

(See Roll Call No. 267)

Representative Brown of Livermore Falls moved that the House adhere.

Representative Racine of Biddeford moved that the House recede and concur.

Representative Higgins requested a roll call

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is the motion of the Representative from Biddeford, Representative Racine, that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

41 having voted in the affirmative and 88 in the negative with 22 being absent, the motion did not prevail.

(See Roll Call No. 268)

The SPEAKER: The pending motion before the House is the motion of the Representative from Livermore Falls, Representative Brown, that the House adhere.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Connolly.

Representative CONNOLLY: Mr. Speaker, Men and Women of the House: I move that the House recede.

It was not my intention -- in fact, it was the furthest thing from my mind to get involved in the debate on this issue. I am somewhat familiar with it because I did have the legislation that was enacted last year. I understand the issues that are involved.

It was my understanding that after the debate we had the other day, and after the action that was taken down at the other end of the hall, that there was some sort of a compromise reached that apparently was acceptable to some of the people who had originally had been opposed to the bill. If this body doesn't want to allow this legislation to go to a Committee of Conference so that that agreement can be worked out and refined, I would hope the House would vote to recede. Then perhaps we could table the issue so that the amendment, which would reflect

the compromise as I understand has been agreed upon, could be presented to this body so we would at least have the opportunity to vote on the particular compromise.

I would hope that the House would vote to recede and await an amendment reflecting the compromise.

Representative Brown of Livermore Falls requested a roll call.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is the motion to recede. Those in favor will vote yes; those opposed will vote no.

55 having voted in the affirmative and 74 in the negative with 22 being absent, the motion did not prevail.

(See Roll Call No. 269)

The SPEAKER: The pending question before the House is the motion of Representative Brown of Livermore Falls that the House adhere.

Representative Martin of Eagle Lake requested a roll call.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is the motion of Representative Brown of Livermore Falls that the House adhere. Those in favor will vote yes; those opposed will vote no.

72 having voted in the affirmative and 58 in the negative with 21 being absent, the motion to adhere did prevail.

(See Roll Call No. 270)

On motion of Representative Diamond of Bangor,
Adjourned until March 31, 1986 at 9 o'clock in
the morning.
